

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No. 5084 of 2001
Date of Decision. October 10 ,2007.

Upinder Kaur Petitioner(s)

Versus

Kamla Sharma Respondent(s)

Present None for the petitioner.

Hemant Gupta , J(Oral)

The challenge in the present revision petition is to an order passed by the learned trial Court on 26.3.2001, whereby an application filed by the defendant -petitioner under Order 7 Rule 11 of the Code of Civil Procedure for rejection of the plaint was dismissed.

The plaintiff-respondent filed a suit for compensation of Rs.1,05,000/- as damages for malicious prosecution of the plaintiff. In the said suit, the defendant-petitioner moved an application for rejection of the plaint on the ground that the Court has not lodged a complaint under Section 340 of the Code of Criminal Procedure and therefore, a suit for damages on account of malicious prosecution is not maintainable.

The learned trial Court found that suit for damages on account of malicious prosecution has nothing to do with the application under Section 340 of the Code of Criminal Procedure. Section 340 of the Code of Criminal Procedure is to lodge criminal proceedings for giving false evidence in Court whereas the suit for damages on account of malicious prosecution and stands on a different footings.

The reasoning given by the learned trial Court that not lodging of proceedings under Section 340 of the Code of Criminal

Procedure cannot bar the suit for damages on account of malicious prosecution cannot be said to be incorrect in any manner. The suit for damages is the remedy before the civil Court whereas the proceedings under Section 340 of the Code of Criminal Procedure are the criminal proceedings initiated at the instance of the Court for giving false evidence in Court. For such conduct, the person can be convicted but does not provide any monetary compensation for the wrong done. The suit for malicious prosecution is a civil remedy to claim compensation for the wrong done. The scope and purpose of both the proceedings is separate and distinct.

Therefore, the findings recorded by the learned trial Court that suit for damages on account of malicious prosecution cannot be rejected for non filing of a complaint under Section 340 of the Code of Criminal Procedure cannot be said to be suffering from any patent illegality or irregularity which may warrant interference of this Court.

Dismissed.

October 10, 2007
mamta

(Hemant Gupta)
Judge